The Solicitors' Journal

Vol. 97 October 10, 1953 No. 41

CURRENT TOPICS

Lord Justice Denning on Legal Aid

LORD JUSTICE DENNING, delivering the Shaftesbury lecture at the Mansion House on 1st October, said that the welfare State had come into being by a true application of Christian principles, but there was a danger of its being mishandled and abused by people who had no knowledge of those principles and who sought only their own advantage. A committee of the British Medical Association had reported already that there was some deterioration in the relationship of doctor and patient. Legal aid, he continued, was not controlled by the State, but by the lawyers. It was good in principle and well devised, but depended for its success on their integrity and high principle. There was a strong temptation for a solicitor to reject an offer to settle a doubtful claim. It was much to his advantage to conduct a long case at great expense—and lose it ; he was sure of his fees. Unless he, and his counsel, were high principled, he might not be able to resist the temptation. We would suggest, however, that the possibility that any more than a negligible number of lawyers would succumb to the temptation to prefer a losing fight to a fair settlement is a remote one.

Fees in Poor Prisoners' Defences

THE new arrangements for the payment of solicitors and counsel for the defence of poor persons came into operation on 5th October, pursuant to the Poor Prisoners' Defence (Fees and Expenses) Regulations, 1953 (S.I. 1953 No. 1429). The solicitor assigned under a defence certificate is to receive a fee not exceeding £4 14s. 6d. subject to an increase up to £9 in cases of exceptional length or difficulty. Where a case lasts more than two full days, up to £2 16s. is allowed for the third and every subsequent day. The solicitor assigned under a legal aid certificate is to be allowed up to £3 3s. and £1 11s. 6d. for every day of adjournment, other than those obtained on application by prosecution or defence or remands or for bail. Percentage increases may be made, to correspond with those under R.S.C., Ord. 65. Necessary travelling expenses for himself and his clerk and reasonable out-of-pocket expenses are also allowed. The fee for counsel assigned under a defence certificate or requested by the judge to conduct the defence is not to exceed £4 17s., or if two counsel are instructed, £8 2s. 6d. for leading counsel and £4 17s. for junior counsel. These fees may be increased in cases of exceptional length or difficulty to £16 5s., or if two counsel are instructed to £24 17s. 6d. for leading counsel and £16 5s. for junior counsel. The daily refresher, commencing on the third day, is £5 10s. or, in the case of leading counsel, £7 12s. Counsel assigned under a legal aid certificate is to get a maximum fee of £4 17s., with a daily refresher of £3 5s. 6d., and if he attends from a distance exceeding 20 miles in a straight line, a maximum of £1 14s. on the first occasion,and £1 4s. on subsequent occasions. No refreshers can be given for remands or for adjournments obtained on application by the prosecution or the defence or for bail. Except for the provision as to fees for additional days for solicitors and

CONTENTS

counsel assigned under a defence certificate or requested to undertake the defence by the judge, the fees represent an increase of 50 per cent. over those in the old regulations. Similar increases of 50 per cent. are to be paid to solicitors and counsel assigned for cases in the Court of Criminal Appeal (the Criminal Appeal (Fees and Expenses) Regulations, 1953: S.I. 1953 No. 1430), and for appeals to quarter sessions (the Appeal Aid Certificate (Fees and Expenses) Rules, 1953: S.I. 1953 No. 1428).

Enquiries of Local Authority

AN entertaining commentary on the new forms of enquiries accompanying requests for official searches in local land charges registries is contained in an article entitled "Twenty-five Questions" in the issue of the *Local Government Chronicle* for 26th September. Such enquiries, it is pointed out, have often been the means whereby an intending purchaser has been able to escape a bad bargain. Such persons, the article says, "are usually full of gratitude to their solicitors, who bask in the unaccustomed splendour of appreciation and murmur something about that's what they are there for." If we may interject a murmur, why "unaccustomed"? The author goes on to complain: "Too seldom does the solicitor attempt to pass on part of the credit to the hard-working officers of the local authority who have spilt the beans." That is a just comment. The article shows us ourselves through other eyes, and it is a little disconcerting to find the writer saying, "In spite of the admonition, 'inappropriate enquiries should be deleted,' large numbers of forms continue, and no doubt will continue, to arrive at the offices of local authorities with all questions, appropriate and inappropriate, still extant." The only substantial advantage to the local authorities which the writer of the article sees in the forms is that the charges for answering the enquiries have been increased. In spite of these increases, in the view of the writer of the article, solicitors and their clients still receive much more than their money's worth. There seems to be a widespread agreement among those who know that solicitors have long received much less than they are worth, but, taking the writer's comment broadly to mean that local government servants give more than they get, we are inclined to agree.

The South Lancashire Criminal Courts

THE proposal to establish a new central criminal court in South Lancashire has been considered in a departmental committee's report and rejected in favour of a modification of this plan by the creation of two full-time judicial posts of Recorder of Manchester and Recorder of Liverpool to assume both the present recorders' functions and those of Commissioners of Assize. The committee was appointed on 16th December, 1952, and, under the chairmanship of Sir ALEXANDER MAXWELL, held eight meetings, in Lancashire and London. There has been an increase of work at the Liverpool and Manchester sessions to three times as much as before the war. At Salford Sessions, the cases are over five times as many as before the war. The exceptional demands made on the time of recorders, who are practising barristers, make an overwhelming case for the reform of their offices. The report states that two persons would have to be given full-time, salaried and pensionable posts as judges of a new central criminal court. The Queen's Bench judges would also be members of the court and one of these would attend to try cases of exceptional gravity. The work of the court would amount to nearly half the work of the Old Bailey. The City Sessions ought to be retained, and the creation of a central criminal court would not therefore be an economical proposition. The cost of the salaries and pensions of the new recorders, it is recommended, should be borne in part by the Exchequer and in part by the Corporations of Liverpool and Manchester. The need for giving relief to the assizes and sessions is urgent, it is said, and a bill should be introduced as soon as possible. The appointment of full-time recorders, it is suggested, should be made permissive, so that there may be a return to the system of part-time recorders, if in future their work is sufficiently reduced. The report is published by H.M. Stationery Office (Cmd. 8955, price 1s.).

Minimum Conveyancing Charges

THE current issue of the *Law Society's Gazette* contains a lengthy list of law societies which have adopted minimum conveyancing charges, divided into three categories: (1) societies which have adopted as a minimum "a 100 per cent. scale," i.e., the full scale charges under the Solicitors' Remuneration Orders; (2) societies which have adopted as a minimum either exactly or approximately 85 per cent. of the full scale charges; and (3) societies which have adopted some other minimum. Lists are to be published every quarter, and honorary secretaries are asked to notify The Law Society of any changes as soon as they occur. The Croydon and District Law Society has adopted a scale of 66⅔ per cent. The scales operated by the Tunbridge Wells, Tonbridge and District Law Society and the King's Lynn Law Society cannot be shortly described in terms of a percentage of the scale charge. Particulars are available from Mr. R. S. R. BERRY, of 11 Church Road, Tunbridge Wells, and Mr. A. BANTOFT, 15 Tuesday Market Place, King's Lynn. It is also pointed out that there may be certain areas where there is a prevailing scale which is higher than the minimum.

The Society of Public Teachers of Law

WE are grateful to Professor L. C. B. GOWER, hon. secretary of the Society of Public Teachers of Law, for a report of the thirty-ninth annual general meeting of the Society on 17th–19th September, 1953. On 17th September Mr. HENRY SALT, Q.C. (author of the minority report of the Nathan Committee), gave an address on "The Charitable Trusts Reports." He deprecated unnecessary cross traffic between the Charity Commission and the Ministry of Education in parallel. He preferred a single Commission, reconstituted by adding to the present two permanent and one House of Commons Commissioner, one expert brought over from the Ministry of Education, one from the Ministry of Health, an extra Parliamentary Commissioner in the House of Lords; and three public men to lead and popularise the whole. He thought three Magi would suffice among the guardian angels of Charity. On 18th September, the Rt. Hon. LORD COOPER, Lord Justice General of Scotland and Lord President of the Court of Session, delivered an address on "Defects in the British Judicial Machine." He asked whether under present conditions our civil courts were offering to the public the service which the community required. Contested litigation was now a luxury article, still available to the very rich and to the poor who could obtain legal aid, but already beyond the reach of persons of moderate means. Costs would not fall, for solicitors and counsel were not overpaid for the services which the present system required of them; and the time absorbed would never be reduced so long as the preparatory stages remained so meticulous and so prolonged, and so long as the courts had to devote more and more time to examining more and more reported precedents. A mass-produced, utility article was better than a luxury article which the customer could not afford to buy, and for which in any event he could not wait.

ENQUIRIES OF LOCAL AUTHORITY—IV

PREVIOUS articles (*ante*, pp. 644 *et seq.*, 662 *et seq.* and 674 *et seq.*) have dealt with the various standard questions on the new forms of enquiries to accompany local searches. All three forms, however, contain in Pt. II a small number of special enquiries which are intended to be made only if particular circumstances justify them. If it is desired to raise one or more of these questions, it is necessary to initial them clearly, and an additional fee of 1s. is payable in respect of each of them. There are four such optional questions on the form intended to be addressed to non-county borough or district councils (Con. 29A), three on the form intended to be addressed to county councils (Con. 29B) and six on the form for use in connection with land in a county borough (Con. 29C).

[*Con.* 29A, *No.* 19; *Con.* 29C, *No.* 20]—"*If the New Streets Act*, 1951, *applies, how have the Council dealt with the property thereunder?*"

This Act does not apply in a rural district except where so ordered by the appropriate Minister. Consequently the corresponding question on the county council form (Con. 29B) asks whether any order has been made applying the Act to the rural district within which the property is situate. If the land is in a rural district, the functions under the 1951 Act may be exercisable either by the county council or by the rural district council as their agents (New Streets Act, 1951, s. 9).

The provisions of the New Streets Act, 1951, were discussed in some detail at 95 SOL. J. 540 *et seq.* This Act provides that a building may not be erected after 1st October, 1951, with a frontage on a private street without payment in respect of, or security for, the cost of street works. The requirement of payment or security does not apply, however, in a number of cases, for instance where plans were deposited before 1st October, 1951, or where exemption is given by the local authority because the street is not likely to be sufficiently built up to justify use of the private street works code. Sums paid to the local authority are treated as being in whole or part discharge of liability for street works, and any excessive payment will be refunded to the owner for the time being (New Streets Act, 1951, s. 3 (1)). It follows that it is advisable to raise this question as regards any house built or other building erected after September, 1951, where an adjoining street is not already repairable by the public, unless the position under the 1951 Act is known. To the extent that payment has been made or security given, the purchaser of the building will be protected against future liability for street works.

[*Con.* 29A, *No.* 20; *Con.* 29B, *No.* 17; *Con.* 29C, *No.* 21]—"*Has compensation been paid by the (Council/County Council) in regard to the property in respect of any Improvement Lines prescribed under section* 33 *or section* 34 *of the Public Health Act*, 1925?"

If an improvement line has been so prescribed, an entry will appear in the local land charges register, Pt. IV. It indicates an intention of widening a highway repairable by the public as far as that line, and no new building, erection or excavation may thereafter be placed or made nearer to the centre of the highway, except with the consent of the authority (Public Health Act, 1925, s. 33). Any person injuriously affected is entitled to compensation (s. 33 (6)). No time is fixed within which a claim may be made for such compensation, and so it may be useful to know whether a payment has been made.

The prescription of an improvement line will not normally be known until the local land charge search certificate is received. This enquiry might be raised, however, in the case of property abutting on a road which is likely to be widened, if a restriction on building near the road would diminish its value materially.

Section 34 makes the powers contained in the earlier section exercisable by a county council as respects a county road.

[*Con.* 29B, *No.* 18; *Con.* 29C, *No.* 22]—"*Has any public path or road used as a public path over the property been shown in a draft, provisional or definitive map, whichever may be the later, prepared under Part IV of the National Parks and Access to the Countryside Act*, 1949?"

Part IV applies in county districts and may be adopted by resolution of the council of a county borough or the Minister may direct that it shall apply to a county borough (*ibid.*, s. 35 (2), (3)). The part provides for the ascertainment of footpaths and certain other highways and for their delineation on maps prepared in three stages, namely, draft, provisional and definitive. It does not apply in many county boroughs and the enquiry need not be made if it is known that it does not. Even in county districts it will not normally be necessary to raise the question except where appreciable areas of land are concerned, such that highways may exist which are not apparent on inspection.

[*Con.* 29A, *No.* 21 (A); *Con.* 29C, *No.* 23 (A)]—"*Has the discharge of trade effluent from the premises into the sewers of the Council been permitted?*"

The general rule is that the discharge into a public sewer of liquid from a factory (other than domestic sewage or surface or storm water), or any liquid from manufacturing processes, is prohibited. Nevertheless, the Public Health (Drainage of Trade Premises) Act, 1937, provides for the grant of consent to the discharge of trade effluent or the grant of general permission by byelaws.

This enquiry need only be made in the case of trade premises, i.e., "premises used or intended to be used for carrying on any trade or industry" (*ibid.*, s. 14 (1)).

[*Con.* 29A, *No.* 21 (B); *Con.* 29C, *No.* 23 (B)]—"*A reference to any Agreement, Consent or Refusal under the Public Health (Drainage of Trade Premises) Act*, 1937, *or otherwise would be appreciated.*"

Consent may be given conditionally (*ibid.*, s. 2 (3)), and there is an appeal to the Minister (*ibid.*, s. 3)). Agreements may be made for the reception and disposal of trade effluent which may provide for the construction by the local authority of works wholly or partly at the cost of the trader (*ibid.*, s. 7 (1)). See also s. 8 (1). Certified copies of agreements must be kept by the local authority available for inspection and copying (*ibid.*, s. 7 (3)).

[*Con.* 29A, *No.* 22; *Con.* 29C, *No.* 24]—"*Is any building on the property included in any list of buildings of special architectural or historic interest supplemental to the lists for which provision is made by section* 30 *of the Town and Country Planning Act*, 1947?"

Under s. 30 of the 1947 Act the Minister may compile or approve lists of such buildings for the guidance of local planning authorities, which lists are registrable in the appropriate register of local land charges. It is necessary to raise this question only if the property is such that a positive answer is reasonably likely.

[*Con.* 29B, *No.* 14; *Con.* 29C, *No.* 25]—"*Has any Order under section* 87 *of the National Parks and Access to the Countryside Act*, 1949, *been made relating to an area which includes the property?*"

It is interesting to note that this question is in Pt. I of Con. 29B (the form sent to county councils) and so is raised in all cases without a special fee. On the other hand, the answer is unlikely to affect land in a county borough, and so it is contained in Pt. II of Con. 29C.

Section 87 enables the National Parks Commission to designate an area as one of outstanding natural beauty. The effect is to confer various duties, rights and powers on the Commission and on local planning authorities comparable to those applicable in National Parks. The existence of an order may be well known, and in any event will usually be of interest only in connection with a large estate.

This completes our examination of the questions raised on the agreed forms. If, in a particular case, a solicitor thinks further enquiries are necessary, he may add them to any of the forms on the understanding that it is in the discretion of the clerk to the local authority to decide whether or not to answer, and that a fee of 2s. 6d. will be payable for every such answer. It has not, in the past, been customary to add any appreciable number of further enquiries, and it is thought that the new forms do not leave much scope for reasonable questions not provided for.

The principle that local authorities should not be compelled to answer the enquiries on the forms and should not undertake legal liability for their answers now appears to be established. In some respects this is unfortunate, but it must be agreed that many of the questions relate to such matters as proposals which are difficult to record and somewhat vague in their operation. A fair conclusion appears to be that the system works reasonably well in practice and that the redrafting is an improvement. The increases in the fees are to be deplored, but they are probably justified having regard to the amount of work involved, particularly as several departments of the authority are usually concerned.

J. G. S.

CHILDREN AS TRESPASSERS

THE occupier of premises owes no duty at all to a trespasser as to the condition of the premises, subject to one qualification, namely, that the occupier of premises must not set a trap with the deliberate intention of injuring a trespasser. Where a person is injured on land where he has no business to be, efforts are frequently made to establish that the injured person was on the land with the leave and licence of the occupier. These efforts sometimes meet with success, largely owing to sympathy, especially where the injured person is a child. But in such cases it is dangerous to pursue a claim based on sympathy, as was made clear by the House of Lords in the recent case of *Edwards and Another* v. *Railway Executive* [1952] A.C. 737; 96 SOL. J. 493. In that case, the accident occurred on a section of the respondents' railway where there was a double track laid on a steep embankment, also the property of the respondents, at the bottom of which there was a public recreation ground provided and maintained by a local authority. At the boundary of the embankment and the recreation ground a wire fence had been erected by the respondents. Children had for many years climbed through the fence by breaking the wire to slide down the embankment, but the existence of the slide and its use by other children were unknown to the infant appellant, a boy aged nine years, until the day of the accident. The respondents' servants had regularly repaired the fence and the infant appellant had been warned by his father not to go through it. On the day of the accident, the infant appellant went through the fence to fetch a ball and while crossing the lines slipped and fell between the lines and was subsequently struck by a train, suffering the loss of an arm. On a claim by the infant appellant through his father as next friend, it was contended that the embankment and lines constituted a lure or attraction for children, and the respondents, well knowing this, failed to take any proper steps to prevent the children from going on to the embankment. The respondents contended that the infant was a trespasser and that there was no evidence that he was attracted to the premises. The jury awarded the infant appellant £6,000 damages. However, the House of Lords (Lords Porter, Goddard, Oaksey, Morton of Henryton and Reid), affirming the Court of Appeal, held that the infant appellant was a trespasser at the time of the accident and that there was no evidence that he was attracted by any allurement on the respondents' premises. The result was that the claim failed. The efforts made to elevate the status in law of the infant into that of a licensee met with no success. Lord Porter, in the course of his speech ([1952] A.C., at p. 744), pointed out that, even assuming that the respondents had knowledge of the intrusion of children on to the embankment, that knowledge did not of itself constitute the children licensees. And Lord Goddard ([1952] A.C., at p. 747) emphasised that in order to find a licence there must be evidence of express permission or that the landowner had so conducted himself that he cannot be heard to say that he did not give it.

The element of *allurement* is undoubtedly important so far as children are concerned, but this factor must always be carefully examined. In the hard-worked case of *Cooke* v. *Midland Great Western Railway of Ireland* [1909] A.C. 229 a railway company kept a turntable unlocked on their land close to a public road. This particular bit of ground was shut off by an embankment from the view of the company's servants at the railway station, and lay half derelict. In spite of a notice board forbidding trespassers, it was a place of habitual resort for children, who frequently played with the timber that lay about on the site and with the turntable. Moreover, the company's servants knew that children were in the habit of trespassing and playing with the turntable, to which they obtained easy access through a well-worn gap in a fence which the railway company were bound by statute to maintain. A child between four and five years old playing with other children on the turntable was seriously injured. At the trial, the jury found for the infant plaintiff for £550. That finding was ultimately upheld by the House of Lords (Lords Loreburn, L.C., Macnaghten, Atkinson and Collins). A careful perusal of the speeches in that case elicits the point of fundamental importance, namely, that the children, of which the plaintiff was one, not only entered upon the land, but also played with the turntable—a most important addition—with the *leave and licence* of the defendant company. The natural question then arises: What are the circumstances in which a licence may be granted to children as distinct from adults? Here one gets guidance from the speeches in the above case, where it was stated that the previous history and actual physical condition of the premises where the accident happens are elements proper for consideration. But probably the *ratio decidendi* was the element of allurement. As Lord Atkinson said (at p. 237): "If vehicles or machines are left by their owners, or by the agents of the owners, in any place which children and boys of this kind are rightfully entitled to frequent, unattended or unguarded and in such a state or position as to attract or allure these boys or children to intermeddle with them, then the owners of those machines

or vehicles will be responsible in damages for injuries sustained by these juvenile intermeddlers through the negligence of the former in leaving their machines or vehicles in such places under such conditions, even though the injured person be a trespasser on the vehicle or machine at the moment the accident occurred." That particular proposition was succinctly expressed by Lord Goddard in *Edwards*' case, *supra*, when he said that, if an owner, whether a railway company or a private individual, for years has allowed part of his premises to be used as a children's playground, some care must be taken for the safety of those who will take advantage of the facility or amenity that appears to be offered them. If a landowner allows them to play in proximity to a dangerous thing that he maintains on his land, he must guard it or make it safe.

Cooke's case, *supra*, was distinguished in *Jenkins* v. *Great Western Railway* [1912] 1 K.B. 525, where the plaintiff, who was a child two and a half years old, lived with his parents in a house close by a branch of one of the main lines of the Great Western Railway Company. On the northern side of the main line there was what was called a relief line, or an avoiding line. Beyond that there was a siding with some carriages on it. Beyond that in one particular place there were some stacks of timber which were within a distance of 2½ inches from the fence. The fence was in perfectly good repair. It was a fence with rails 3 inches thick, narrower at the bottom. On the north side of the fence there was the public road. The plaintiff got over or was assisted over or through the fence and when on the main line was run over by an express train of the company, sustaining serious injury. At the trial, the jury found that the company's servants knew that children were in the habit of playing on the pile of sleepers, but not that they were in the habit of getting on the main line; that the fence was not a reasonably fit fence for the purpose of separating the railway from the high road, having regard to the proximity of the houses on the other side of it; that the children were in the habit of getting on the pile of sleepers over or through the fence by the leave or licence of the company, but not elsewhere, and that the defendants, having regard to all the circumstances, were guilty of negligence in not taking some sufficient means of preventing children from getting on to the line. It was held by the Court of Appeal, affirming Bankes, J., that the leave and licence (if any) to play on the pile of sleepers was confined to that spot, and did not extend to the main line; that there was no duty on the company to fence off the sleepers from the rest of their land, and that they were not liable. The attempt made on behalf of the plaintiff to apply *Cooke's* case, *supra*, was demolished by Farwell, L.J., when he said (at p. 535): "We are asked to say that *Cooke's* case would have been decided as it was if the children who were invited to go and play with the turntable had strayed on to the other side of the field, and had there fallen into the ditch, although they had never before been known to go over to the ditch, and although there was no evidence whatever of any invitation or leave and licence except up to the turntable; and, having so read *Cooke's* case, to hold that it governs this. In my opinion, that would be an undue extension of *Cooke's* case."

Another attempt to apply *Cooke's* case failed in *Latham* v. *R. Johnson & Nephew, Ltd.* [1913] 1 K.B. 398, where land in question formed the site of some old houses which had been pulled down, leaving an open space of waste ground of considerable extent. A wall which had bounded the land upon one side had been pulled down at the same time as the houses. The public were allowed by the defendants to traverse the land, and children of all ages were in the habit of playing upon heaps of stone which from time to time were deposited there by the defendants. The land did not adjoin any public highway, but it was accessible by a path which led from the back of the house in which the plaintiff, a child between two and three years old, lived with her parents. The plaintiff, unobserved by her mother, left the house, unaccompanied by any older person, and a short time after was found sitting upon one of the stones with her hand beneath another by which it was crushed and injured in such a manner that one of her fingers had to be amputated. There was no evidence to show how the accident had happened. In an action for negligence, the jury found that children played upon the field with the knowledge and permission of the defendants; that there was no invitation to the plaintiff to use the land unaccompanied; that the defendants ought to have known that there was a likelihood of children being injured by the stones; and that the defendants did not take reasonable care to prevent children being injured thereby. Upon those findings Scrutton, J., held that the case came within *Cooke's* case and gave judgment for the plaintiff with damages. But it was held by the Court of Appeal that, there being neither allurement nor trap nor invitation, nor dangerous object placed on the land, the defendants were not liable. On the subject of "allurement," there is a most instructive passage in the judgment of Hamilton, L.J. (at pp. 415, 416): "'Allurements,' too, is a vague word. It may refer only to the circumstances under which the injured child has entered the close. Here it is hard to see how infantile temptations can give rights, however much they may excuse peccadilloes. A child will be a trespasser still if he goes on private ground without leave or right, however natural it may have been for him to do so. On the other hand, the allurement may arise after he has entered with leave or as of right. For the presence in a frequented place of some object of attraction, tempting him to meddle where he ought to abstain, may well constitute a trap, and in the case of a child too young to be capable of contributory negligence it may impose full liability on the owner or occupier, if he ought, as a reasonable man, to have anticipated the presence of the child and the attractiveness and peril of the object. . . . It must be a matter of law to say whether a given object can be a trap in the double sense of being fascinating and fatal."

The last of these cases for our consideration here is *Robert Addie and Sons Collieries, Ltd.* v. *Dumbreck* [1929] A.C. 358, where the appellants, who were colliery owners, were proprietors of a field in which there was haulage machinery working over a considerable extent of ground. Part of this machinery consisted of an endless chain passing at its outer end over a horizontal pulley and working near the ground. The field adjoined a public road, and was quite insufficiently fenced from the road. The field had been for a considerable period traversed on occasion as a short cut to a chapel and a railway station, and had been often used by children as a playground. To these children the moving apparatus was an attraction. The appellants' employees at times warned children out of the field and reproved adults, but, as the appellants knew, the children disregarded warnings and the adults continued to frequent the field. The respondent had warned his son, who was four years of age, not to enter the field or to go near the wheel. An accident occurred owing to this child, when sitting on the cover of the wheel or in a position near to the pulley and rope, being caught and drawn into the mechanism when it was set in motion by the appellants' servants. It was held by the House of Lords (Lord Hailsham, L.C., Viscount Dunedin, Lords Shaw, Blanesburgh and Buckmaster) that the boy was a trespasser

and went on the colliery premises at his own risk, and that the appellant company owed him no duty to protect him from injury. Lord Hailsham, L.C. (at pp. 369, 370), after repeating the general rule that a person trespasses at his own risk, went on to say: "The only question therefore that remains for decision in this case is whether, upon the findings of fact of the Court of Session (which are not open to review), the respondent's son may properly be regarded as having been at the wheel at the time of the accident with the leave and licence of the appellants. If this had been proved, I should have been prepared to hold that the wheel, which was at times stationary and which was started without any warning, and which was, in the words of the Court of Session, "dangerous and attractive to children and insufficiently protected at the time of the accident," amounted to a trap, and that the respondent would therefore have been entitled to recover. But, in my opinion, the findings of fact effectually negative that view. It is found that the appellants warned children out of the field and reproved adults who came there, and all that can be said is that these warnings were frequently neglected and that there was a gap in the hedge through which it was easy to pass on to the field. I cannot regard the fact that the appellants did not effectively fence the field or the fact that their warnings were frequently disregarded as sufficient to justify an inference that they permitted the children to be on the field, and, in the absence of such a permission, it is clear that the respondent's child was merely a trespasser. The sympathy which one cannot help feeling for the unhappy father must not be allowed to alter one's view of the law." Equally important was Lord Hailsham's opinion on *Cooke's* case. "In my opinion," said Lord Hailsham (at p. 366), "*Cooke's* case rests upon the ground that there was evidence from which the jury were entitled to infer that the plaintiff was on the turntable with the leave and licence of the railway company, and that the turntable was in the nature of a trap; it therefore throws no light upon the question as to any duty owed by the occupier of premises to a trespasser."

Further investigation of this subject could continue, but might tend to confuse rather than to clarify the position. It appears clear on the highest authority that, if in certain circumstances an adult is a trespasser, then a child is a trespasser in the same circumstances.

M.

A Conveyancer's Diary

IMPROVEMENTS TO SETTLED LAND AND THE AGRICULTURAL HOLDINGS ACT—*continued*

In *Re Duke of Northumberland* [1951] Ch. 202, the settled property was an estate known as the Alberry Estate in Surrey, which consisted of some 3,500 acres, mostly agricultural land. The tenant for life had expended considerable sums on repairs and maintenance of the estate since the year 1945. This expenditure included both expenditure on farms let to tenants and expenditure on cottages occupied by employees of the estate. One of the questions raised was whether the trustees could, or should, recoup the tenant for life out of capital money for her expenditure on repairing and maintaining the cottages. Vaisey, J., answered this question in the affirmative, as follows: "The plaintiffs, as trustees . . . of the settlement . . . are entitled to apply capital moneys of the said settlement in payment (as for an improvement authorised by the Settled Land Act, 1925) of any money expended or to be expended . . . by the tenant for life under the said settlement in or about the execution . . . of such repairs as are specified in para. 23 of Pt. II of Sched. III to the [Agricultural Holdings Act, 1948] in relation to agricultural land, whether the same be comprised in a contract of tenancy or not and whether within the definition of 'agricultural holding' in the Act of 1948, s. 1, or not. I interpose the comment that the last-mentioned definition cannot, in my judgment, be applicable in the present connection. It reads thus: 'In this Act the expression agricultural holding means the aggregate of the agricultural land comprised in a contract of tenancy, not being a contract under which the said land is let to a tenant during his continuance in any office, appointment or employment held under the landlord.'"

In the second of the cases on this legislation, *Re Sutherland Settlement Trusts* [1953] 2 W.L.R. 1163; 97 Sol. J. 387, the application related to an estate known as the Sutton Place Estate, also in Surrey. This estate comprised agricultural land to which certain works of repair were done both before and after the 1st March, 1948 (when the Act of 1948 came into operation), which works were paid for (in effect) by the tenant for life. The trustees, when required to pay for these works out of capital money, did so in the case of all works executed after the 1st March, 1948, but refused in the case of works executed before that date, and it was this refusal that led to the application. It appeared in evidence that in so far as any of the land was let, none of the repairs were repairs which the respective tenants were under an obligation to carry out, so that in this respect there was no difficulty in applying para. 23 of Pt. II of Sched. III to the 1948 Act to this case. It also appeared that some of the land in question was in the hands of the tenant for life.

The whole application was refused by Harman, J., no distinction being made between the land which was let and the land in hand, on the ground that the works in question, having been executed before the Act of 1948 came into operation, could not be said to have been executed "under" that Act, as required by s. 73 (1) (iv) of the Settled Land Act, 1925, as amended by the Act of 1948. The question whether, in order to bring any works within s. 73 (1) (iv), it is necessary that the land on or to which they have been executed should be let as an agricultural holding did not, therefore, arise in this case, but it seems to me that the reasoning which led the learned judge to his conclusion in this case, viz., that a work must normally be executed "under" the Act of 1948 in order to come within s. 73 (1) (iv) of the Act of 1925, although primarily directed to the question of the time when the work was done, is applicable also to the character of the thing to which the work was done. Is a work done "under or in pursuance of the Agricultural Holdings Act, 1948" (those being the operative words for this purpose of s. 73 (1) (iv), as amended), if the land to which it is done is not let as part of an agricultural holding? This difficulty is not removed by the definition of "landlord" in s. 94 (1) of the Act of 1948 as "any person for the time being entitled to receive the rents and profits of any land," which has been held to be the meaning which the expression "landlord" in s. 73 (1) (iv) must bear, having regard to its use there in close conjunction with a reference to the agricultural holdings legislation; the

requirements that the works, in order to qualify as improvements for the purposes of the Settled Land Act, must be executed by a landlord, under or in pursuance of the Act of 1948, *prima facie* seem to be cumulative.

The third case on this subject, *Re Lord Brougham & Vaux's Settled Estates* [1953] 3 W.L.R. 465; 97 SOL. J. 540, did not raise this point, for the land there in question was at all times an agricultural holding, let as such. But in that case the tenant was responsible for some, at least, of the repairs the cost of which the tenant for life required the trustees to pay out of capital money as coming within s. 73 (1) (iv) of the Settled Land Act, and it was objected that as para. 23 of Pt. II of Sched. III to the Act of 1948 specifically excluded such repairs from the scope of that paragraph, those repairs were also excluded from s. 73 (1) (iv). Vaisey, J., rejected this argument. In his view the words excluding such repairs from para. 23 were not to be imported into s. 73 (1) (iv) of the Settled Land Act, " with the result that improvements which can be paid for out of capital moneys include ' repairs to fixed equipment reasonably required for the proper farming of the holding ' without qualification." It was, in the learned judge's opinion, difficult to suppose that s. 73 (1) (iv) was not intended to import into the Settled Land Act the additional improvements, having regard to their nature as improvements, and disregarding every reference in any Agricultural Holdings Act to the particular relationship between agricultural landlord and agricultural tenant.

This construction of the relevant legislation, that all that is imported into s. 73 (1) (iv) by the reference therein to the Agricultural Holdings Act is a more or less bare list of improvements, was put forward (in somewhat different circumstances) in *Re Lord Sherborne's Settled Estate* [1929] 1 Ch. 345, which was not, however, mentioned to Vaisey, J., in either of the cases on this subject which have come before his lordship. But even as pronounced, it is not without difficulty. If the effect of s. 73 (1) (iv) is to authorise repairs to " 'fixed equipment [as defined in the Act of 1948] reasonably required for the proper farming of the holding," that last word still suggests, in my respectful view, that the land on which the fixed equipment is must be let as an agricultural holding. As a reference to the existence of a tenancy, which is what the Act of 1948 was intended to regulate, the reference to " holding " is apposite. In any other sense, it is strangely archaic. If a freeholder has a hencoop in his back garden it is, I suppose, open to him to describe it as standing on his holding, for his land is a freehold tenement; but it is not the kind of language that one expects to find in a modern statute. Where all is so dark it is dangerous to express even the most tentative opinion, but my own feeling is that the question whether all land, or only land let as part of an agricultural holding, comes within s. 73 (1) (iv), has not yet been determined for all time.

The other questions raised in these cases, or rather in the first two of them, are these: (1) are trustees required, if called upon to do so, to pay for repairs to " fixed equipment " on settled land which were effected before the Act of 1948 came into operation on the 1st March, 1948? and (2) assuming that a particular repair comes within the category of repairs the cost of which the trustees may pay out of capital money, are the trustees in all cases bound to obey a direction by the tenant for life to make the payment, or have they any, and if so what, discretion in the matter? As to the first of these, in the *Northumberland* case the repairs in question had been carried out in a period commencing on the 1st January, 1945, and according to the headnote to the report of that case in the *Law Reports* it was held that the trustees were entitled to apply capital moneys in payment of all the repairs comprised in the application, the date in question being applicable because (*a*) the evidence did not cover any earlier period, and (*b*) the recoupment of expenditure made more than six years previously appeared to be inconsistent with the principles laid down in *Re Borough Court Estate* [1932] 2 Ch. 39. In the *Sutherland* case, Harman, J., refused to follow this part of this decision, for reasons already partly discussed (see also an article in this " Diary " at p. 142, *ante*). In the *Brougham and Vaux* case, Vaisey, J., confessed his error, and it may thus be taken as settled that in order to qualify as s. 73 (1) (iv) improvements, repairs of the kind mentioned in para. 23 of Pt. II of Sched. III to the Act of 1948 (whatever they may be) must have been executed after the 1st March, 1948.

Finally, the question of the trustees' discretion. In the *Northumberland* case Vaisey, J., held, in answer to a specific question on this point, that the trustees were bound, under s. 75 (2) of the Settled Land Act, 1925, to comply with the directions of the tenant for life, upon being satisfied that the application would be within the relevant provisions of the Settled Land Act, and consistent with the judgment in that case. In the *Sutherland* case, as already stated, the repairs had in some instances been effected to property in the tenant for life's hands, so that the result of repayment out of capital money would have been to put money into the tenant for life's pocket. As the tenant for life is in the position of a trustee for all persons entitled under the settlement, Harman, J., felt that he was at liberty to distinguish the decision in the *Northumberland* case on this point, and he held, accordingly, that the trustees were not bound to comply with the tenant for life's directions as regards the pre-1948 Act repairs (this being an additional reason given for refusing the application in that case). But as regards post-1948 Act repairs, the learned judge expressed the opinion that the tenant for life could properly give the direction (and, presumably, the trustees would be bound to comply with it) because the statute contemplated that he should do so and because the expenditure would, no doubt, be incurred in the first place on that footing. As pre-1948 Act repairs have in any case now been declared to be outside the scope of s. 73 (1) (iv), the position is that once the trustees are satisfied that the repair comes within that provision, they must comply with the tenant for life's direction under s. 75 (2). Having regard to the difficulties, only partially resolved in the decisions discussed above, on the question what constitutes a repair within s. 73 (1) (iv), this is no light responsibility for a trustee to bear, and where any considerable sum is involved an application to the court seems desirable.

" A B C "

Rugby Town Council have decided to admit Mr. DOUGLAS E. BIART, town clerk for twenty-five years, to the roll of honorary Freeman of the borough. The casket will be presented on 19th October, the twenty-first anniversary of the presentation of the borough's charter.

The Lord Chancellor has appointed Mr. KENNETH PETER DAVID THOMAS to be the Registrar of Westminster County Court as from 1st October, 1953, in place of Mr. I. D. McIlwraith, O.B.E. (deceased).

The Lord Chancellor has appointed Mr. JOHN KYRLE HANKINSON to be Registrar of the Brighton, Haywards Heath and Worthing County Court and District Registrar in the District Registry of the High Court of Justice in Brighton as from 1st October, 1953, in place of Mr. J. R. Morton Ball, who retired on 30th September, 1953.

The Lord Chancellor has appointed Mr. E. A. OLDFIELD to be Superintendent of the Royal Courts of Justice Staff in the place of Captain K. B. Millar, M.B.E., R.N., retired.

Landlord and Tenant Notebook

MEANING OF "SHOP"

THE interpretation of expressions used in the Leasehold Property (Temporary Provisions) Act, 1951, is provided by s. 20 (1) of that statute, and when we come to the expression "shop" we find that the interpretation itself uses an expression interpreted elsewhere in the subsection. "Shop" means "premises occupied wholly for business purposes, and so occupied wholly or mainly for the purposes of a retail trade or business"; and "retail trade or business" itself "has the same meaning as in the Shops Act, 1950, except that it does not include the sale of intoxicating liquor for consumption on the premises or the sale of meals or refreshments in premises which are licensed for the sale of intoxicating liquor for consumption on the premises, so however that this exception shall not have effect where . . ." and the rest of the provision is designed to make it clear that, while the ordinary public-house is not to rank as a shop, the tenant of a licensed restaurant receiving less than three-fifths of its receipts from the sale of alcoholic refreshment may qualify for a "new tenancy."

So far the Supreme Court has been called upon to interpret this interpretation in only one reported case, and it may well be that the fact that the appeal was allowed accounts for the reporting. The facts of *M. & F. Frawley, Ltd.* v. *The Ve-Ri-Best Co., Ltd.* [1953] 1 W.L.R. 165 (C.A.); *ante*, p. 46, were pretty straightforward. The tenants (the Frawley Company) were builders and decorators; they do not appear to have quarrelled with that description, which was, indeed, the one used by them on their own notepaper. On the premises which they held, or had held, they occasionally sold paint, cement and paint brushes to members of the public; they also cut keys. The selling was done in a small room where the stock was displayed on a table and kept in a cupboard thereunder; there was no counter. They did not, however, urge so much that the sales were a sufficiently important feature of their business to make the premises "occupied wholly or mainly for the purposes of a retail trade or business" as that the fact that the services they rendered to members of the public were so rendered off the premises did not matter. And this argument was accepted by the learned county court judge after, but possibly in spite of, a visit to the premises.

Possibly both sides sought to derive support from the provision of the Shops Act, 1950, giving the meaning of "retail trade or business." For s. 20 of that Act says: "'retail trade or business' includes the business of a barber or hairdresser, the sales of refreshments or intoxicating liquors, the business of lending books or periodicals when carried out for the purposes of gain, and retail sales by auction, but does not include the sale of programmes and catalogues and other similar sales at theatres and places of amusement." This, of course, can hardly be called a definition. The tenants pointed to the word "includes," contending that this left the matter open; but they also—no doubt by reference to *Rolls* v. *Miller* (1884), 27 Ch. D. 71 (C.A.)—urged that "business" had a wider connotation than "trade," emphasising the inclusion of hairdressers, and on these lines persuaded the judge of first instance that the word "retail" meant that "any business activity in which the person carrying it on comes in contact with and supplies services or other facilities to members of the public as distinct from persons in trade was covered." But this, it was held by Somervell, L.J., whose summary of the reasoning I have just quoted, would mean covering things which would seem to be a long way from the word with which one starts, which is "shop." "The general character of the word to be defined must colour the definition." No doubt the mistake was largely due to the peculiar arrangement of that definition; for the definition of "retail trade or business" actually precedes that of "shop," which uses it, and another expression, "the reversion," is dealt with in between.

Somervell, L.J., declined to lay down any general observation as to what "includes" may mean in every context, but considered that mention of such activities as the business of a barber or hairdresser and that of lending books or periodicals merely showed what kind of extension was meant to be covered by the word "business"; which was not meant to cover the supplying of services outside the premises. Jenkins, L.J., too, agreeing that the terms of the definition suggested that a business might be a retail business although concerned with matters other than the sale of goods, pointed out that the qualification "retail" showed that there must be some analogy if the definition were to apply to a business, i.e., that the services rendered must be performed in circumstances comparable with those in which the ordinary retail trade in the sale of goods is normally carried on in a retail shop. The judgment is, perhaps, more useful to the practitioner than that of Somervell, L.J., when it comes to hypothetical cases; Somervell, L.J., pointed out that the construction argued for by the tenants would bring bankers within the Act; Jenkins, L.J., after making the observations just mentioned, went on to suggest some businesses which might well qualify tenants for new tenancies, namely, shoe repairing, cleaning of clothes, watch mending.

At all events this leaves us satisfied that there are retail businesses in which nothing is sold; mostly, when we have heard about the wider connotation of "business," the occasion has been one in which it was urged in vain that as no selling was done no "business" was being carried on at all, e.g., running a school (*Doe d. Bish* v. *Keeling* (1813), 1 M. & S. 95), or sub-letting apartments (*Barton* v. *Reed* [1932] 1 Ch. 362). These were, of course, cases interpreting restrictive covenants; and perhaps for a decision which illustrates the difference between selling and not selling one can best turn to *Derby Motor Cab Co.* v. *Crompton and Evans' Union Bank, Ltd.* (1915), 31 T.L.R. 185. In that case the action was brought for the alleged infringement of a covenant not to let premises "as a motor garage and office." The covenantor had let them as a lock-up show-room and was held not to be in breach. As the judgment put it, a motor garage was a building where motor cars were "taken to be filled up, washed, etc., payment being made in the office." For the purposes of the Leasehold Property (Temporary Provisions) Act, 1951, no doubt such premises, though cars would not be sold, would be a "shop" because used for a "retail business."

R. B.

MR. H. F. GATES

Mr. Howard Francis Gates, who for thirty-three years was clerk to the Hove Justices, died on 25th September, aged 88. He was admitted in 1888.

MR. W. T. PHIPPS

Mr. W. T. Phipps, barrister-at-law, Clerk of the Peace and of the County Council of Lincoln, Parts of Kesteven, from 1931 to 1941, died on 2nd September at Grantham, aged 71.

HERE AND THERE

OPENING PERFORMANCE

WITH the new boilers safely absorbed into the bowels of the Royal Courts of Justice and the great flagstones of the forecourt carefully replaced over the gaping chasm which received them, the building was ready to open its doors with an unwonted warmth of welcome to its very own star performers in the annual pageant of British jurisprudence. Not very long returned from his first visit to the United States and Canada, and with the Great Seal safely recovered from the custody of the eight Commissioners who had looked after it during his absence beyond the seas, Lord Simonds, with embroidered purse and mace borne before him, looked every inch the Chancellor at the head of the procession. He has the strong, solid face and figure to wear his robes as they should be worn. We have been lucky in the looks of our Chancellors for some time now. Lord Simon and Lord Jowitt (contrasting in so many respects) both fulfilled every requirement of a ceremonial occasion. This day brought a welcome, if brief, return of Lord Simonds to the law, which, since his elevation to the Woolsack, has seen hardly anything of him, so thoroughly have political business and his other duties monopolised his attention. During the past year he has taken no part in the hearing of appeals to the House of Lords. By contrast, most of the other figures in the procession were returning to their familiar workshop, though they were by no means all familiar figures. Scarlet and ermine and a full-bottomed wig are great maskers of the indicia for establishing identification, and in a who's judicially who competition I doubt whether a single person in the Central Hall would have scored full marks. One figure at least, at the tail of the judicial dignitaries, would have puzzled most of the competitors in such a game. In black and gold but separated from the members of the Court of Appeal he might have been a lord justice delayed in a traffic jam or (an inquiring foreigner might think) a jurist whose promotion was held up by the requirements of some competitive examination or other. But a Lancastrian would know. He would scent afar the red roses embroidered on the front of the robe, and recognise the Vice-Chancellor of the County Palatine, the judge of its own private Court of Chancery. The visitors had a particularly long time of waiting in the Central Hall, for the procession succeeded the Lord Chancellor's breakfast, now re-established and intervening between it and the two services held at Westminster, the High Mass sung at the Cathedral in the presence of Cardinal Griffin and the Church of England service, this year transferred to St. Margaret's because the Abbey is now a dangerous structure. The Lord Chancellor and the Lord Chief Justice read the lessons, the one the Sermon on the Mount, the other "Love righteousness, ye that be judges of the earth."

POLITICS ECLIPSED

AND, on the whole, one does get the impression (human failings allowed for) that they do love righteousness and that their robes are not a disguise but a symbol of whatever is permanent, continuous and enduring in the English conception of justice, as distinct from what is accidental and occasionally regrettable. It was just about then that the discussion as to the political allegiance of possible candidates for the Chief Justiceship of the United States reminded us how remarkably non-political our own Bench has become. There was a time (and not so very long ago) when all the higher judicial appointments were treated, as a matter of course, as political prizes, while the shortest (though not, in fairness, one must say, the only) road to the Bench was by way of the lobbies of the House of Commons. Two instructive vignettes of how things used to be done (if you care to look them up) may be found in Lord Campbell's first judicial appointment in 1841 as Lord Chancellor of Ireland and the now almost comical scandal of Lord Halsbury's choice of Charles Darling as a Queen's Bench judge. The fury of the Irish at the circumstances in which a Scotsman practising in England had been foisted on them was such that even Campbell had to resign in a couple of months without claiming the pension attached to his office. Darling, on the other hand, eventually more or less justified his appointment and lived to become (in the opinion of the popular Press) the greatest judge of his time. Nowadays things are very different. We have changed all that. Neither Lord Simonds nor Lord Goddard nor Sir Raymond Evershed has ever sat in the House of Commons. In the whole judiciary (I think) only thirteen are to be found who have been Members of Parliament or even candidates for Parliament. In the matter of its judicial appointments the late Government has a particularly happy record; few of its choices had even so much as a slight Left incline, while Lord Reid was selected from the ranks of its opponents.

SCOTTISH CONTRASTS

ODDLY enough, appointments to the Court of Session in Scotland, which lie with the Lord Advocate (the Caledonian equivalent of the Attorney-General) have, by a mixture of habit and tradition, retained a decidedly political flavour, so that half of the Scottish judiciary had a political personal history before their elevation. On the face of it one would think that to become one of the two Scottish Lords of Appeal would be the sought-after apotheosis of an Edinburgh lawyer. Once it may have been so, but it is certainly no longer the case. It is well known that Lord Normand, who has just resigned, came south only with great reluctance. It is not by any means obvious who will be prepared to succeed him, and if you look more closely at the matter you will see why. In these days of high taxation the financial incentives are negligible and any advantage would be more than offset by the expense of establishing a new residence in London with its high cost of living. Why, then, should a man abandon his old habits, associations and friends, especially if he incidentally transforms himself at first from a big fish in a little pond to a little fish in a big pond? Lord Normand will be very much missed in the appellate work of the House of Lords. There is a craggy solidity about his personality, reminiscent of the Castle Rock in Edinburgh, which created an atmosphere of stability at the proceedings at which he assisted.

RICHARD ROE.

REVIEWS

Introduction to English Law. Second Edition. By PHILIP S. JAMES, M.A., of the Inner Temple, Barrister-at-Law. 1953. London: Butterworth & Co. (Publishers), Ltd. 15s. net.

Professor James writes the preface to this second edition of his student's book in even "breezier" style than the first. His continued cheerfulness is justified; the "miniature" of our legal system and its subject-matter was much admired, and must have given many tyros an instructive and certainly not unentertaining first view of their chosen study. The whole range of law is here comprised and its principles succinctly explained and topically illustrated. We would recommend it anywhere as a first law book.

The author apologises for the device of cross-references which he says he finds an irritating one. May we mention an idiosyncrasy that grates on us? On practically every page one finds quotation marks used for purposes of emphasis. Take the sentence "The expression 'contract of sale' denotes two things, a 'sale' and an 'agreement to sell.'" We can see the point of the first set of commas, but what is the

function of the second and third sets? It is to be hoped that the habit does not spread to the student reader. A glance at the first two sentences of this review seems to indicate that we have ourselves caught it!

Preston and Newsom on Limitation of Actions. Third Edition. By G. H. NEWSOM and LIONEL ABEL-SMITH, of Lincoln's Inn, Barristers-at-Law. 1953. London: The Solicitors' Law Stationery Society, Ltd. £3 15s. net.

We have the liveliest memories of a certain detective novel in which a judge's wife declares that limitation of actions was always a subject that interested her. To which a rejoinder is made suggesting that on that account she is an inhuman brute. The novel is the work of a distinguished lawyer, and we suppose that his train of thought in seizing on this expression of taste on the part of his character as emphasising a streak of ruthless practicality in her make-up will be readily followed by his brother lawyers. But, inhuman or not, an interest in the subject of limitation is something that is forced upon any legal practitioner, in whatever field of law his work lies. No one with a passing acquaintance with modern law reports is likely to under-estimate its importance in litigation. As for the effect of "the statute" on matters of title, it is enough to observe that one of the authors and editors of the book under review is conveyancing counsel to the Post Office.

Preston and Newsom has become the standard text-book on its subject, and with its comprehensiveness and its bold facing up to undecided difficulties, it is surely a splendid example of a modern practical treatise. Let not our reference to undecided difficulties lead the reader to suppose that the Limitation Act, 1939, is not a very good consolidating Act. We agree with the editors of this edition that it has been a success. There is, however, a great deal more to the law of limitation than a knowledge of the periods set out in the 1939 Act against various causes of action. That statute itself deals with disability, acknowledgment, fraud and mistake, but it is in the general law that one must most often look to find the answer to one of the crucial questions in any limitation problem—when does this or that period commence to run? The all-round erudition of those responsible for this book is not least in evidence in the many passages which deal with this and other similar points of contact with substantive law.

Nor is the statute law of timeliness all to be found in the consolidation Act, and here we think the book might with advantage adjust its balance. Many of the points which confront a solicitor in practice and which may in ordinary parlance be said to relate to the limitation of actions arise on statutes other than the Limitation Act, 1939. These other Acts are not, it is true, Statutes of Limitation in the strictest sense of that term, since the setting of a time limit is not their main function. The present book does not, indeed, neglect them, and in a separate chapter outlines the relevant provisions of more than twenty such Acts. We would have liked to see them given more prominence in the eye of the reader, particularly, perhaps, s. 1 (3) of the Law Reform (Miscellaneous Provisions) Act, 1934, a subsection of very real concern in all cases of tort and one not properly evaluated in a scheme which tucks it away under "Personal Representatives." The judge's lady would never have underplayed it thus.

On the other hand, the chapters on Laches and Acquiescence and on Arbitrations are most useful compendia of cognate topics. The literary style of the whole book is noteworthy for a welcome tautness and economy of statement. The citation of cases is copious, and if we should have expected on pp. 23 and 215 a further reference to *Turburville* v. *West Ham Corporation* [1950] 2 K.B. 208, in which the Court of Appeal expressed views on the question of estoppel as a counter-bar to the statutory defence, that criticism is disarmed as soon as uttered by the inclusion of a little-known Scottish decision and an unreported English case on the same topic.

The Stock Exchange Official Year Book, 1953. In 2 vols. Vol. II. Editor-in-Chief: Sir Hewitt Skinner, Bt. London: Thomas Skinner & Co. (Publishers), Ltd. £7 net (2 vols.).

Volume II of The Stock Exchange Official Year Book contains the two largest groups of companies, "Commercial, Industrial, etc.," and "Mines," and includes the index to both volumes. Two new features are an analysis of the notices in the two volumes and a list of securities quoted on the Johannesburg Stock Exchange in which dealings are permitted in London.

Register of Defunct and Other Companies, 1953. Editor-in-Chief: Sir Hewitt Skinner, Bt. London: Thomas Skinner & Co. (Publishers), Ltd. £1 10s. net.

This volume, which contains information on the demise or reconstitution of securities and companies which have passed out of previous editions of The Stock Exchange Official Year Book, is said to be the only publication which records the effects of nationalisation schemes on the securities taken over. The list of British, Dominion, provincial and Colonial Government stocks redeemed or converted since 1st January, 1940, has been brought up to date and appears at the end of the volume.

CORRESPONDENCE

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL]

Preservation of Historic Buildings

Sir,—A recent experience makes me wonder whether our legislators are really in earnest about the preservation of buildings of special architectural or historic interest. I happen to own such a building, which is let to a tenant who by a policy of masterly inactivity is allowing it slowly to disintegrate. In due course I shall, no doubt, recover damages for my tenant's failure to comply with his repairing covenants, but damages in my pocket will not reimburse the community for the loss of part of its heritage. I accordingly went to my local Divisional Planning Officer, who assured me (and what he said has since been confirmed by counsel) that, whilst the Town and Country Planning Act, 1947, contains power to make what are called "building preservation orders" in respect of buildings such as mine, there is in truth no power to compel the owner or the occupier of such a building to take any steps to preserve it.

The only effect of making an order is to render it unlawful to carry out works which would seriously affect the character of the building, but there is nothing to prevent the building being allowed to fall into decay. It is just another case of "thou shalt not kill, but need'st not strive officiously to keep alive."

I am advised that the only step which can be taken under the Act to prevent a building falling a victim of time, wind and weather, is to acquire it compulsorily under s. 41 of the Act. The consequent expenditure of public funds obviously means that only very outstanding buildings will be dealt with in this way. Meanwhile, we are powerless to stop the remainder rotting away.

Southport. CUTHBERT R. HALSALL.

The office of the Redhill County Court has moved to 103–5 Bell Street, Reigate (Reigate 2545). The court continues to sit at the Town Hall, Reigate. By S.I. 1953 No. 1459 the name of the court has been changed to the Reigate County Court as from 5th October.

A sitting of the Gas Arbitration Tribunal will take place at No. 10 Carlton House Terrace, London, S.W.1, on Tuesday, 13th October, 1953, at 10.30 a.m., when the case of the Bournemouth and District Water Company and the Southern Gas Board will be heard.

TALKING "SHOP"

[The year is A.D. 2003. The practice of Messrs. Plum and Apple still flourishes, but in the new style of Plum, Apple, Pip & Co. The partners now are Mr. Pip and Mr. Greengage.]

Mr. Pip: I agree with you that the law is tending to become rigid again; there is a lot of mulling over precedents these days. But it may not be a bad thing. Your uncle Plum, I remember, used to say that practice became very difficult during the evolutionary theories of the 'fifties. Half the time he did not know what advice to give to his clients . . .

Mr. Greengage: Well, in that respect at least things haven't changed much. Odd, though, that you should mention the 'fifties, because counsel made much the same point to me the other day. He said that it was in the 'fifties that judge-made law first showed signs of its modern flexibility; he would have wished to practice at the Bar in the golden age—say between the years 1950 and 1975.

P.: Of course you are too young to remember old Sloe, who was a junior at the Chancery bar at that time, but he used to say much the same thing about the years 1850 to 1875.

G.: I think I have seen his name in some of the old reports. Some of them, you know, make the most extraordinary reading. The fuss that lawyers used to create about restitution and unjust enrichment! There was the Cairo case . . .

P.: Do you mean the case of the British sergeant who used to sit in the front of a lorry in uniform? He was paid large sums by the Egyptian owners of the cargo who had good and disreputable reasons for desiring a safe-conduct for it. The Crown confiscated the money and the sergeant tried to recover it.

G.: Yes, that was the case. *Reading* v. *A.-G.* [1951] A.C. 507. It was held that the Crown was entitled to the money. The conclusion seemed reasonable enough but it was very difficult to explain it upon any known principle of law or equity. It was the sort of case that used to bother lawyers in the 'fifties, just for that reason . . . Then, you would not suppose that there could be much difficulty about this sort of case: *A* sells goods on commission for *B*, who pays him so much a week on account; in fact he does not earn so much as he has drawn, but refuses to cough up the balance.

P.: Why not money had and received to the use of the plaintiff?

G.: Quite. But first of all, in *Clayton Newbury, Ltd.* v. *Findlay* [1951] 12 C.L. 107, McNair, J., decided the point in favour of the defendant; and then in *Rivoli Hats, Ltd.* v. *Gooch* [1953] 1 W.L.R. 1190, Hallett, J., decided it in favour of the plaintiffs.

P.: Surely there was something to "distinguish" the earlier case? They were always "distinguishing" cases in those days.

G.: Well, in the earlier case the money was to be drawn against commission "whilst travelling"; at one point the learned judge refers to the money paid exceeding the commission earned and at another he refers to the "expenses" exceeding the commission; conceivably the advances were made in part against expenses. At all events, Hallett, J., said the case was "an instance of the awkwardness of relying on publications which had not the status of a recognised series of reports" and declined to follow it.

P.: But that distinguishing of the earlier report—if you can so describe it—is sufficient to show that in 1953 the new maxim of equity had not yet become firmly established.

G.: You mean "equity moves with the times."

P.: Yes: it seems strange now to speak of it as "new" but it cannot be more than fifty years old. You must remind me to lend you a little book of mine called "The Changing Law" by Sir Alfred Denning; a bit out of date now, of course, but historically it is still of great interest. *The Times* said of it in a contemporary review that "the thesis that judges should not only apply the law justly but apply just law is a *challenging one.*"

G.: Fantastic!

P.: Exactly; it shows how far we have moved since then. And *The Times*' review was, after all, only giving expression to the corollary notion that, if just law cannot be made to conform to precedent, the judges have no choice but to apply unjust law—a thesis that had been firmly rooted in our legal system for centuries. Lord Justice Denning, by the way, was one of the first to explode the age-old fallacy that judges do not make the common law, but merely expound it.

G.: I doubt if it makes much difference in the end, because until the judges have made it, you do not know what it is.

P.: Very true; and of course, with the so-called "new" maxim that equity moves with the times, things became very unsettled for your old uncle Plum. He and Apple had been nursed in the creed that precedent controls the law and not *vice versa.* Once equity started moving with the times, it became quite fluid and shifted old Plum and Apple around until they were giddy.

G.: I suppose it is a reaction against that which is setting in now. But what you were saying about Denning, L.J., interests me a good deal because only the other day I was reading his dissenting judgment in the old case of *Littlewood* v. *George Wimpey & Co., Ltd., and British Overseas Airways Corporation* [1953] 3 W.L.R. 553. The first defendants, building contractors, had been held two-thirds responsible in tort for an injury caused to the plaintiff, and the second defendants, a public authority, had been held one-third responsible. But the plaintiff's claim against the public authority was statute-barred by s. 21 of the Limitation Act, 1939. It was conceded (*per* Denning, L.J.) that had the plaintiff not sued the public authority at all, the contractors could have obtained contribution from the public authority. But becausehe had sued them out of time and failed, they could not.

P.: How did the court work that one out?

G.: On the wording of s. 6 (1) (*c*) of the Law Reform (Married Women and Tortfeasors) Act, 1935; in brief on the ground that the words "if sued" did not mean "if sued in time." So by the chance of the public authority's having been sued out of time, the building contractors were left without a remedy; though they had moved as soon as they could, and it was a matter over which they had no control.

P.: Remarkable.

G.: To be fair, the court was in a dilemma. Singleton, L.J., said that he found great difficulty in treating a tortfeasor who had been sued as though he had not been sued, and still greater difficulty in treating such a tortfeasor as one who would have been liable if sued, when in fact he had been sued and held not liable. He could not see how a judge who had held that a defendant was not liable could immediately afterwards say that he would have been liable if he had been sued. Denning, L.J., thought that if such was the state of the law it was most unsatisfactory.

P.: Nobody but a lawyer would find it a just solution to saddle one tortfeasor with the whole damages and let the other go scot-free.

G.: Well, after all, the public authority had escaped on the main issue of liability. Why should they go down on the subsidiary issue of contribution?

P. (*impatiently*): That is just the way that old Sloe might have argued it. Why? Because they were one-third at fault. They were lucky to escape on the first issue of liability

as it was. They were at fault and should have paid their fair share; and so they would have done if they had not been sued out of time by the plaintiff. The contractors, as you say, moved against them as soon as they could.

G.: On what principle, do you suppose, would the matter be decided now?

P.: I think on the general principle that simplicity is equity.

G.: Was that not also one of the so-called "new" maxims evolved in the 'fifties?

P.: Yes, I think it was; though indeed it was but a recognition of the obvious. No, I should say that the most handsome contribution of the 'fifties to modern jurisprudence was the thought, then strangely enough deemed revolutionary, that inconsistency is equity.

G.: It seems elementary now.

P.: Yes, indeed. I remember old Sloe often gave a written opinion in conflict with what he had said in conference, but if I ever presumed to tax him with it, he would reply that "consistency was the virtue of small minds. Ha, ha!" Rather a vexing old chap, really. And yet I could never make him see that there was anything virtuous in the new inconstancy of equity. He used to say that he had spent all his life studying precedents and now the courts were chucking them over. As a matter of fact, much the same complaint was made of Lord Mansfield, as Sir Alfred Denning pointed out in the preface to his book. "Instead of those certain and positive rules by which judgments of a court of law should invariably be determined, you"—Lord Mansfield, that is—"have fondly introduced your own unsettled notions of equity and substantial justice."

G.: There is something to be said for "certain and positive rules"; I expect that is why we have taken to going back again to the old precedents. It is curious what you dig up once you get started on it. Do you know what was bothering them in 1953?

P.: Wasn't it the jurisdiction of the court to permit tax-avoidance resettlement schemes?

G.: Actually I was thinking of the rights of a married woman in the home.

P.: Was that the *Bendall* v. *McWhirter* line of cases? Plum, or it may have been Apple, once told me that for a while nobody could fit them satisfactorily into the existing framework of the law, and they were anathema to the pedants. Of course, in those days the law was supposed to be stable—or at all events having position without magnitude and just waiting to be evoked like Banquo's ghost. And so the puzzle was how to fit new terms to unfamiliar phenomena. The new concept just overran its vocabulary and left the profession groping.

G.: I see that the Lord Chief Justice of the day said that the wife remained in the home "as a licensee of a very special and anomalous character." Rather an agreeable phrase.

P.: That would have been Goddard, L.C.J. You may count upon it that as usual he hit the nail on the head; it was the anomaly that hurt. Scientists are well accustomed to this problem and if, for example, a new type of crustacean swims into the scientific world, it is made to feel at home at once with a new, high-sounding Latin name. Lawyers have always been much slower to recognise novelty. But once people got around to calling it a "matrimonial licence" it became respectable again with an allotted place in Halsbury's index along with marriage licences and brewers' licences. And, naturally, once the thing had been checkmated in that way, everybody felt more comfortable.

G.: What puzzles me is how equity developed over the last fifty years without creating just that chaos of uncertainty that old Sloe and Uncle Plum so much feared?

P.: Well, it was very simple, really. I suppose you have heard of the maxim that equity follows the law?

G.: (*doubtfully*) I think so.

P.: The same principle was applied. The new equity followed the old equity. It retained what was wholesome and chimed with good sense, and that was the greater part. But, in Sloe's phrase it "chucked over" what was rotten, archaic, uncertain, inept, obsolete or absurd. And, of course, as usually happens, the Jeremiahs were confounded. It is not so difficult to guess what the court will judge to be ripe for revision. And the habit of making intelligent guesses benefited our profession, because lawyers began to study law in its true relation to the social problems of the day and not as an abstract science. It helped to remove the half-deserved reproach that we were always falling backwards over ourselves. Even old Plum had to allow that the guessing game became no more difficult than it was before. He used to say that trying to persuade the court to distinguish precedents had always been hazardous and often futile; but if you wanted the court to follow them then as like as not it would distinguish them . . . Talking of the grip of precedent, did you ever hear of the *Diplock* case?

G.: Was that the ruinous series of actions about charitable *or* benevolent?

P.: That's right. Our judges now would have killed it stone dead on the principle that equity moves with the times.

G.: Or on the ground of simplicity?

P.: Well, it would certainly have been simple enough to have done what the testator so obviously intended.

G.: Or by boldly disregarding precedent—inconstancy in other words?

P.: I agree. Driven to choose nowadays between justice and constancy, the court will elect to be inconstant. Did you notice what the Master of the Rolls said the other day in *Re Crump; Public Trustee* v. *Batter?*

G.: Was that the "guided missile" case?

P.: No, I think it concerned an undivided share in one of those old-fashioned atom bombs. Old Dough, J., had observed rather smugly at first instance that "hard cases make bad law." The Master of the Rolls, allowing the appeal, said that Dough, J., should stick to straight ethics, cite fewer saws and precedents, and leave the law to look after itself.

G.: Meaning, I suppose that the Master of the Rolls would look after it! Rather hard to say whether Dough, J., is well behind the times or a little ahead of them.

P. (*reflectively*): He used to be in old Sloe's chambers. Always pressing the new equity on old Sloe. No use at all, of course. Sloe was bitter about the new equity.

G.: *Plus ça change, plus c'est la même chose.*

P.: That also should be a maxim of equity.

"ESCROW"

The existing rent tribunals with offices at Bath, Bristol and Weston-super-Mare will be amalgamated from 1st November, 1953.

The Minister of Housing and Local Government has terminated the existing members' appointments as from 31st October, 1953, and made the following appointments to the new tribunal:—*Chairman*, Mr. G. Knowles; *Member and Reserve Chairman*, Mr. R. H. Jones; *Member*, Mr. T. J. Coles; *Reserve Members*, Mr. W. P. Wordsworth, Mrs. F. I. McGill, Mr. T. H. Minchen, Mr. C. Marcel Reece.

The address of the new tribunal will be Rooms 20 and 21, Royal London House, Queen Charlotte Street, Bristol, 1 (Bristol 20829).

SURVEY OF THE WEEK

STATUTORY INSTRUMENTS

Appeal Aid Certificate (Fees and Expenses) Rules, 1953. (S.I. 1953 No. 1428.) See *ante*, pp. 687, 688.
Control of Hemp Order, 1953. (S.I. 1953 No. 1408.)
Criminal Appeal (Fees and Expenses) Regulations, 1953. (S.I. 1953 No. 1430.) See *ante*, pp. 687, 688.
Exchange of Securities (No. 3) Rules, 1953. (S.I. 1953 No. 1440.) 5d.
Food (Licensing of Wholesalers) (Amendment) Order, 1953. (S.I. 1953 No. 1423.)
Food Rationing (General Provisions) (Amendment) Order, 1953. (S.I. 1953 No. 1422.)
Glucose and Syrup and Treacle (Revocation) Order, 1953. (S.I. 1953 No. 1421.)
Hungerford-Gloucester-Ross-Hereford Trunk Road (Cirencester By-Pass) Order, 1953. (S.I. 1953 No. 1415.)
Iron and Steel Prices (No. 5) Order, 1953. (S.I. 1953 No. 1438.)
Livestock Rearing (Delegation to County Agricultural Executive Committees) Regulations, 1953. (S.I. 1953 No. 1431.) 5d.
Meat (Prices) (Great Britain) (Amendment) Order, 1953. (S.I. 1953 No. 1409.) 5d.
Meat (Prices) (Northern Ireland) (Amendment) Order, 1953. (S.I. 1953 No. 1410.)
Merchant Shipping Medical Scales (Amendment) Order, 1953. (S.I. 1953 No. 1446.) 6d.
Milk (Great Britain) (Amendment) Order, 1953. (S.I. 1953 No. 1436.)
National Assistance (Re-establishment Centres) Regulations Confirmation Instrument, 1953. (S.I. 1953 No. 1413.) 5d.
North-West Wales River Board (Transfer of Powers of the Malltraeth and Corsddaugau Commissioners) Order, 1953. (S.I. 1953 No. 1433.)
Paisley Water Order, 1953. (S.I. 1953 No. 1426 (S.107).)
Petty Sessional Divisions (East Sussex) Order, 1953. (S.I. 1953 No. 1427.) 5d.
Poor Prisoners' Defence (Fees and Expenses) Regulations, 1953. (S.I. 1953 No. 1429.) 5d. See *ante*, p. 687.
Purchase Tax (No. 3) Order, 1953. (S.I. 1953 No. 1432.)
Retail Drapery, Outfitting and Footwear Trades Wages Council (Great Britain) Wages Regulation Order, 1953. (S.I. 1953 No. 1404.) 8d.
Salvaged Goods (Revocation) Order, 1953. (S.I. 1953 No. 1407.)
Ships' Stores (Amendment No. 2) Order, 1953. (S.I. 1953 No. 1424.)
South Staffordshire Water Order, 1953. (S.I. 1953 No. 1408.) 5d.
Stafford Water Order, 1953. (S.I. 1953 No. 1425.)
Stopping up of Highways (Bristol) (No. 2) Order, 1953. (S.I. 1953 No. 1414.)
Sugar (Revocation) Order, 1953. (S.I. 1953 No. 1420.)

[Any of the above may be obtained from the Government Sales Department, The Solicitors' Law Stationery Society, Ltd., 102–103 Fetter Lane, E.C.4. The price in each case, unless otherwise stated, is 4d., post free.]

POINTS IN PRACTICE

Questions from solicitors who are REGISTERED ANNUAL SUBSCRIBERS are answered without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 102–103 Fetter Lane, E.C.4, and contain the name and address of the subscriber, and a stamped, addressed envelope.

Agricultural Holding—Notice to Quit Directed to One of Two Joint Tenants—Validity

Q. In 1912 *A* let the freehold farm Blackacre to Roberts from year to year. Roberts had three children, two sons, *X* Roberts and *Y* Roberts, and a daughter, *Z* Roberts, who lived with him at Blackacre. In 1914 Roberts died and it appears that the three children farmed the land after him, but it is not known whether there was a new tenancy agreement made with the three children. It appears that the farm was later sold by *A* to *C*. *C* died in 1951 and, in 1952, his executor sold the farm to *P*, the contract providing that the sale should be subject to the tenancy " of Messrs. Roberts Brothers as yearly tenants thereof." Before the completion of the purchase by *P* it was discovered that *X* Roberts had died in 1940 and the conveyance conveyed the property to *P*, subject to the occupation of " *Y* Roberts as yearly tenant thereof." *Y* Roberts and his sister, *Z* Roberts, resided in the farm at the date of this conveyance and continue to do so. On 3rd March, 1953, a notice to quit the farm, dated 24th March, 1953, was served by registered post on *Y* Roberts to expire on 25th March, 1954. On 9th March, 1953, the usual counter-notice claiming the protection of s. 24 (1) of the Agricultural Holdings Act, 1948, was served on *P* by registered post. This notice was signed " *Y* Roberts, tenant." *P* made an application for the Minister's consent to the operation of the notice to quit and, in accordance with the usual procedure, both sides appeared before the appropriate county agricultural committee. In May, 1953, *P* was informed that the Minister had given his consent to the operation of the notice to quit on the grounds set out in para. (*a*) of subs. (1) of s. 25 of the Agricultural Holdings Act, 1948. *Y* Roberts did not appeal against the Minister's decision. *Y* Roberts now claims that the notice to quit served on him was invalid, inasmuch as he insists that he and his sister, *Z* Roberts, were the tenants, having taken over with their deceased brother from their late father. Is the notice to quit served on *Y* Roberts alone valid?

A. In our opinion the notice to quit was valid and, if it were not, its validity could not now be impugned by *Y* Roberts. Authority on the effect of directing a notice to quit to one of several joint tenants is not plentiful, but the reasoning employed in *Doe d. Aslin* v. *Summersett* (1830), 1 B. & Ad. 135, would apply; a periodic tenancy is essentially a modified tenancy at will, which endures only as long as all parties want it to endure. The fact that in that case the notice was by joint landlords would make no difference, and, presumably, the same reasoning underlay the badly reported decision in *Doe d. Macartney* v. *Crick* (1805), 5 Esp. 196, upholding a notice addressed to one of several joint tenants. (It is sometimes said that the notice was served on one of the tenants, but as it was a verbal notice the expression appears to be inapt.) The above would cover the positions of both *Y* and *Z* Roberts but, apart from this, we consider that *Farrow* v. *Orttewell* [1933] Ch. 480 (C.A.) could be relied on as authority for the proposition that, by giving the counter-notice and appearing before the county agricultural executive committee, *Y* Roberts estopped himself from disputing the validity of the notice to quit. The decision mentioned has since been applied in *Re Swanson's Agreement; Hill* v. *Swanson* (1946), 62 T.L.R. 719; 90 Sol. J. 643, the facts of which, however, are less closely analogous to those submitted.

Income Tax—Change in Standard Rate—Half-Yearly Collection of Ground Rent—At what Rate Tax to be Deducted

Q. Most long leases reserve ground rent quarterly, but in practice (for the convenience of all) the rent is usually collected half-yearly—thus on 24th June the ground rent due 25th March is demanded and paid with that due 24th June. Where a change has taken place in the standard rate of income tax, should tax on the total be allowed at the new rate or the March quarter at the old rate and the June quarter at the new rate? We believe the former is correct and in accordance with the practice of the Revenue. In some cases there are unpaid arrears and the demand notices allowed tax at the old rate. We presume these remain unaltered and are payable with the old rate deduction though actually paid after the coming into force of the new rate.

A. If the rent is payable " wholly out of profits or gains brought into charge to tax " then the tax is deducted pursuant to s. 169 of the Income Tax Act, 1952, and is tax at the standard rate " for the year in which the amount payable becomes due." If the rent is not payable out of taxed income then tax is deducted pursuant to s. 170 of the Income Tax Act, 1952, and is tax at the standard rate " in force at the date of payment." In the normal way ground rents will be paid out of taxed income—it is rarely that a taxpayer will pay more ground rent than his statutory income—and accordingly deductions should be made at standard rate when the payments fell due, irrespective of the date of payment.

NOTES AND NEWS

Honours and Appointments

The Lord Chancellor has decided, with the consent of the Chancellor of the Duchy of Lancaster, to transfer Judge ALAN WALMSLEY, Q.C., from Circuit No. 5 (Bolton, etc.) to Circuit No. 4 (Preston, etc.).

The following appointments are announced in the Colonial Legal Service: Mr. H. W. N. BETUEL, Magistrate, Nigeria, to be Chief Magistrate, Nigeria; Mr. F. A. BRIGGS, Puisne Judge, Federation of Malaya, to be Justice of Appeal, East African Court of Appeal; Mr. C. A. BURTON, Crown Counsel, Nigeria, to be Senior Crown Counsel, Nigeria; Mr. P. A. CARNE, Resident Magistrate, Tanganyika, to be Assistant Administrator General, Tanganyika; Mr. S. A. BENKA-COKER, Crown Counsel, Sierra Leone, to be Solicitor-General, Sierra Leone; Mr. E. W. L. M. CORBALLY, Resident Magistrate, Nyasaland, to be Legal Officer, Federation of Malaya; Mr. J. J. DICKIE, Resident Magistrate, Uganda, to be Crown Counsel, Uganda; Mr. J. R. GREGG, Puisne Judge, Nigeria, to be Puisne Judge, Hong Kong; Mr. C. D. G. HARBORD, Resident Magistrate, Northern Rhodesia, to be Puisne Judge, Tanganyika; Mr. G. J. HORSFALL, Chief Magistrate, Fiji, to be Judicial Commissioner, British Solomon Islands Protectorate; Mr. A. A. HUGGINS, Resident Magistrate, Uganda, to be Magistrate, Hong Kong; Mr. J. R. KENNEDY, Assistant Land Officer, Tanganyika, to be Administrator-General, Tanganyika; Mr. W. A. BLAIR-KERR, Crown Counsel, Hong Kong, to be Senior Crown Counsel, Hong Kong; Mr. G. B. SLADE, Crown Counsel, Uganda, to be Senior Crown Counsel, Uganda; Mr. J. A. SMITH, Chief Magistrate, Nigeria, to be Chief Registrar, Nigeria; Mr. J. C. WOODING, Attorney-General, Leeward Islands, to be Puisne Judge, Windward and Leeward Islands; Mr. E. CHAMBERS to be Deputy Registrar, Supreme Court, Kenya; Mr. H. R. J. LEWIS to be Crown Counsel, Fiji; Mr. A. J. SANGUINETTI to be Crown Counsel, Kenya.

Personal Notes

Mr. Rowland Pemberton Liddle, who has served with Newport Bench for fifty-three years, is retiring. He will carry on practising as a solicitor.

His Honour Judge Peel, O.B.E., Q.C., retired from the County Court Bench on 2nd October, 1953.

Mr. Wilfrid Henry Robinson, town clerk of Luton since 1932, is to retire on 31st December.

Mr. Richard Sandford, clerk to Albrighton (Shrewsbury) Bench for fifty years, is retiring. He intends to carry on with his practice.

Miscellaneous

THE SOLICITORS' LAW STATIONERY SOCIETY, LTD.

INTERIM DIVIDEND

The directors at their meeting on 6th October declared an interim dividend of 4 per cent, less income tax (same), to be paid on 23rd October, 1953.

On 1st October, 1953, the South-Eastern Regional Office of the Ministry of Housing and Local Government was transferred from Tunbridge Wells to London. The new address is: Ministry of Housing and Local Government (South-Eastern Region), Whitehall, London, S.W.1 (VICtoria 8540). Personal callers should go to Caxton House, Tothill Street. Mr. J. E. Beddoe, Assistant Secretary, is the Principal Regional Officer in charge.

The Royal Institute of British Architects Golfing Society beat the London Solicitors' Golfing Society by five matches to three on Saturday, 5th September, at the Woking Golf Club.

A lecture on "Comparative Law as Seen by a Continental Lawyer" will be given by Professor Max Gutzwiller, of the University of Fribourg, at King's College, Strand, W.C.2, at 5.30 p.m., on Friday, 23rd October, 1953. Admission to the lecture is free and without a ticket.

Wills and Bequests

Mr. C. Jones, solicitor, of Holywell, left £53,833 (£53,155 net).

Mr. F. W. Kay, solicitor, of Blackpool, left £38,906 (£23,181 net).

Mr. W. Scruton, solicitor, of York, left £13,646 (£13,559 net).

Mr. G. A. Waller, J.P., solicitor, of Southampton, left £97,374 (£95,683 net).

SOCIETIES

The MANSFIELD LAW CLUB announce the following programme for Michaelmas Term, 1953: 15th October, "What is Justice?" by the Rt. Hon. Lord Justice Denning; 21th October, "Torts relating to Commerce," by Mr. Clive M. Schmitthoff, LL.D., Barrister-at-Law, M.I.Ex.; 12th November, a moot: in the Chair: Mr. A. S. Diamond, M.A., LL.D., Master of the Supreme Court, Queen's Bench Division; 26th November, "The Historical Background of Modern Income Tax Law," by Mr. A. Farnsworth, LL.D., Ph.D., F.R.Hist.S.; 10th December, "British Exports and International Trade," a discussion. In the Chair: Mr. Alfred J. Townsend, Director and Secretary, the Institute of Export.

All meetings will be held at the City of London College in Grand Hall and will begin at 6 p.m. The meetings will be preceded by an informal tea for members and their guests at Room 114 (adjoining the Hall) from 5.30 p.m. onwards. Visitors are welcome at all meetings.

THE UNION SOCIETY OF LONDON announce the subjects for debate in October, 1953, in the Common Room, Gray's Inn, at 8 p.m.: Wednesday, 14th October, "That the sensationalism of the Press should be restrained"; Wednesday, 21st October, "That the Macnaghten Rules are basically unsound"; Wednesday, 28th October, Joint Debate with the Inns of Court Students' Union, "That any extension of nationalisation is undesirable."

The LIVERPOOL LAW CLERKS' SOCIETY announce the following syllabus of lectures for the period October, 1953, to March, 1954: (1953), 6th October, "Further Reminiscences of a Bar Clerk," T. H. Hughes, Esq.; 13th, 20th and 27th October, "Recent Developments in Law of Master and Servant," Andrew Rankin, Esq., B.A., B.L.; 3rd November, "Collisions at Sea," Jeffreys Collinson, Esq., M.A., B.C.L.; 10th November, "The Law Society's Conditions of Sale, 1953," J. J. Rimmer, Esq.; 17th November, "Road Traffic Acts," B. Berkson, Esq., LL.M.; 24th November and 1st December, "Divorce Practice," F. J. Nance, Esq., LL.M.; 8th December, "Passing Off Actions," M. C. Hazelwood, Esq., B.Sc.; 15th December, "Law of Bailment," R. A. H. Collinge, Esq., M.A.; (1954), 5th January, "Probation and Crime," John Woolfenden (Chief Probation Officer for Liverpool); 12th January, "Town and Country Planning (Advertising Sites)," J. V. Woollam, Esq., B.A.; 19th January, "Sale of Goods," K. F. Lawton, Esq., B.A.; 26th January and 2nd February, "Building Contracts," J. K. Gore, Esq., B.A.; 9th February, "Leading Cases, 1953," A. L. Julian, Esq., M.A.; 16th February, "Hire Purchase," Jeffreys Collinson, Esq., M.A., B.C.L.; 23rd February, "Rescission of Contracts," J. D. Newton, Esq., LL.B.; 2nd March, "Ticket Cases," M. C. Hazelwood, Esq., B.Sc.; 9th March, "Law of Fixtures," W. E. Helsby, Esq., LL.M. The lectures will be delivered at the Law Library, Tower Building, Water Street, Liverpool, commencing at 5.30 p.m. For further particulars apply to Mr. J. Hughes, Hon. Secretary, c/o Law Library.

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertising Offices: 102–103 Fetter Lane, London, E.C.4. Telephone: CHAncery 6855.

Annual Subscription: Inland £3 15s., Overseas £4 5s. (payable yearly, half-yearly or quarterly in advance).

Advertisements must be received first post Wednesday.

Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).